

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                                 |   |                          |
|---------------------------------|---|--------------------------|
| LADY MAAKIA CHARLENE SMITH,     | ) |                          |
|                                 | ) |                          |
| Plaintiff,                      | ) |                          |
|                                 | ) |                          |
| vs.                             | ) | Case No. 4:20 CV 804 JMB |
|                                 | ) |                          |
| PHELPS COUNTY SHERIFF'S         | ) |                          |
| DEPARTMENT, PHELPS COUNTY JAIL, | ) |                          |
| RICHARD L. LISENBE, DR. ARTHUR  | ) |                          |
| BENTLEY, DIONNE KELLEY, KELLY   | ) |                          |
| RATCLIFF, UNKNOWN GLENN, JOE    | ) |                          |
| TAYLOR, DOES 1-15, ADVANCED     | ) |                          |
| CORRECTIONAL HEALTHCARE, INC.,  | ) |                          |
| And DR. TRAVIS SCHAMBER,        | ) |                          |
|                                 | ) |                          |
| Defendants.                     | ) |                          |

**ORDER**

This matter is before the Court on the Stipulated Joint Motion to Vacate Verdict and Judgment filed by Plaintiff Lady Maakia Charlene Smith and Defendants Dionne Kelley, Dr. Arthur Bentley and Advanced Correctional Healthcare, Inc. (ACH) (Doc. 298). No opposition has been filed.

Pursuant to a stipulation (Docs. 195, 196) and an Order on summary judgment (Doc. 201), the claims against Defendants Phelps County Sheriff's Department, Phelps County Jail, Richard L. Lisenbe, Unknown Glenn, Kelly Ratcliffe, Joe Taylor, Dr. Travis Schamber, Does 1-15, ACH (as to Count II), and Dr. Bentley (in his official capacity) were dismissed, some with and some without prejudice. The remaining claims, against Defendants Kelley and Dr. Bentley (in his individual capacity) and ACH (Count III) were tried to a jury on May 16, 2022 to May 24, 2022. The jury found in favor of Plaintiff and assessed compensatory and punitive damages against each of these remaining Defendants. Judgment was subsequently entered on May 26, 2022, setting

forth the disposition of each of Plaintiff's claims. Plaintiff filed a notice of appeal on August 3, 2022 and the pending motion, construed as a Federal Rule of Civil Procedure 60(b)(6) motion, followed shortly thereafter.

On August 26, 2022, a hearing was held on the motion (Doc. 200). In a subsequent Order, the undersigned found that it was unclear whether there was jurisdiction to rule on the pending motion in light of the notice of appeal, an event of jurisdictional significance. The parties were directed to take some appropriate action that would clarify jurisdiction and to file a status report by September 9, 2022. No status report was filed by the deadline; however, counsel contacted chambers via email and indicated that the Court of Appeals had granted a motion dismissing Defendants Kelley, Dr. Bentley and ACH from the appeal and remanding the claims against them to this Court. See Lady Maakia Charlene Smith v. Dr. Arthur Bentley, et al., Case. No. 22-2644, (8th Cir. 2022) (Motion filed on September 12, 2022 and Order entered on October 6, 2022). In light of the dismissal of Defendants Kelley, Dr. Bentley, and ACH from the appeal, it is appropriate to now consider the merits of the motion. Pioneer Ins. Co. v. Gelt, 558 F.2d 1303, 1312 (8th Cir. 2004). There being no objection and to facilitate settlement, the Motion is **GRANTED**.

Accordingly, **IT IS HEREBY ORDERED** that the May 24, 2022 Jury Verdict (Doc. 262) is **VACATED** and the May 26, 2022 Judgment is **VACATED in part** as to Defendants Kelley, Dr. Bentley, and ACH. **IT IS FURTHER ORDERED** that all claims against Kelley, Dr. Bentley, and ACH are hereby **DISMISSED with prejudice** pursuant to the Parties' stipulation. The Clerk of Court shall enter an amended judgment accordingly.

/s/ John M. Bodenhausen  
JOHN M. BODENHAUSEN  
UNITED STATES MAGISTRATE JUDGE

Dated this 21st day of November, 2022